

STATEMENT OF THE HONORABLE WM. LACY CLAY  
Before  
The Subcommittee on Capital Markets, Insurance, and Government Sponsored  
Enterprises

“Reviewing U. S. Capital Market Structure: Promoting Competition in a Changing  
Trading Environment”

Good morning, Chairman Baker, Ranking Member Kanjorski, Members of the committee and witnesses.

I am encouraged by the reports of the plans to reform the New York Stock Exchange (NYSE). Especially encouraging were the proposals for a smaller, independent board, made up of outsiders. This is needed to eliminate any suspicions of conflicts of interest.

There is a clamor for other changes that go beyond the board. State pension funds and mutual funds are demanding radical changes in the way that business is done. They believe that too much of the profits are lost to consumers through the payment of excessive commissions, too high stock prices, and billions of dollars yearly in costs passed on to investors by those who control the markets.

It cannot bode well for investor confidence in the market when one hears that specialists on the New York Stock Exchange (NYSE) often times sell investors stock from their own inventories at inflated prices when the client could buy it cheaper directly from another seller.

It cannot bode well for investor confidence when investors find that specialist firms, according to a study done by a Washington, DC research boutique, “posted pretax margins of 37% to 61% last year compared to 9.7% for the big Wall Street firms.”

According to the most vocal critics, the mechanism called the “trade-through rule prevents funds from choosing less risk over a possible better price on the NYSE. The clamor for the elimination of this rule is louder than all of the rest of the complaints combined. This could give customers a tremendous saving, but also cause firms like Merrill Lynch to suffer enormous financial blows.

Restructuring will have to address all of these problems and more to insure competition in the market is on an even playing field. The trade-through rule does give the specialists on the floor an almost monopolistic grip on prices of stocks. How this is addressed is going to be key to whether structural reforms are cosmetic or real.

Mr. Chairman, I ask unanimous consent to submit my statement to the record.